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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,637	07/28/2000	Kenichi Oinoue	P/3541-6	2855

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OSTROLENK FABER GERB & SOFFEN LLP
1180 Avenue of the Americas
New York, NY 10036-8403

EXAMINER	
LINTON, HEDLEY O	

ART UNIT	PAPER NUMBER
2615	

DATE MAILED: 11/10/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/627,637	OINOUE, KENICHI	
	Examiner	Art Unit	
	Hedley Linton	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-8 and 11-13 is/are rejected.

7)☒ Claim(s) 9 and 10 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because the legal phraseology "means" as used in the abstract should be avoided. Correction is required. See MPEP § 608.01(b).

Allowable Subject Matter

3. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. A current search of the prior art did not reveal wherein a setting means decreases or resets a set memory capacity when a judgment means judges that it is impossible to transmit the recorded information.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al (US Patent No: 5806005).

6. Regarding claim 1, Hull et al disclose a portable image system that includes an electronic camera including a record medium which records an image information obtained by a shooting (figure 1, item 10; column 2 lines 1-8). Inherent in Hull et al is a detection means which detects that a memory capacity of the record medium becomes a predetermined value since if the memory is full the device transmits images to the server station (detection means would be inherent in CPU 22; figure 1, item 22; column 3, lines 1-22). A first interface that transmits and receives information (figure 1 item 26) and a communication unit including wireless communication means that can transmit an image file is disclosed (figure 1 item 28). Transmission control means (inherent in the CPU 22 of figure 1; column 3, lines 18-28) to transmit the image information recorded on the record medium by the wireless communication means based on a detection signal from the detection means, and a second interface that transmits and receives the information with the first interface of the electronic camera is also inherent in Hull et al since the amount of free memory space remaining is displayed in response to a signal from the detection means inherent in CPU 22, thereby allowing execution of a transmit command by dialing a cellular number for the server station or otherwise setting up the link between the device and the server station (column 3, lines 1-28).

7. Regarding claim 3, see examiner's comments on claim 1 above and note that Hull et al's device "pings" the destination to determine whether it is available, ready and willing to receive data and transmits data only when an affirmative response to the "ping" is received. This constitutes a measurement means in the communications unit that measures the communication environment by wireless communication and a setting means that adjusts an amount of the image file to be continuously transmitted (namely no image transmitted) according to the communication environment measured by the measurement means.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hull et al as applied to claim 1 above and further in view of Sasaki et al (US Patent No: 5034804).

10. Regarding claim 2, Hull et al as applied to claim 1 above disclose all the limitations of claim 2 except wherein the first setting means adjusts the memory capacity of the recording medium that is detected by the detection means. Sasaki et al disclose an electronic still camera with various modes of data compression that allows the adjusting of a memory capacity of its recording medium. In Sasaki et al, mode switch 12 allows the change of the amount of digital data required for storing one frame of an image. The amount of frames that can be stored on a given recording medium and

thus the frame memory capacity of the recording medium is dependent on the mode that is selected. When a mode that results in a lower resolution is set, the memory can store more frames and vice versa (Sasaki et al, column 4, lines 58+; column 5, lines 1-10). This gives the user added versatility because a user can now decide on the number of frames and the resolution of the images that can be recorded in memory. Furthermore the user can determine whether to trade resolution for memory capacity depending the imaging environment. Note that the use of the number of frames as the basis of measurement for memory capacity is more realistic to the average user who is more familiar with the number of exposures on a roll of film. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Hull et al to include the mode selection switch (setting means) disclosed by Sasaki et al in order to adjust the memory capacity of the recording medium detected by the detection means since this would provide added versatility to the device in a meaningful way as described above.

11. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hull et al as applied to claim 1 above, and further in view of Doviak et al (US Patent No: 6418324).

12. Regarding claim 4, Hull et al as applied to claim 1 above disclose all the limitations except wherein the transmission control means can connect a plurality of wireless communication systems with different rate systems. However it is well known to enable a wireless transmission device to connect a plurality of wireless systems with different rates. Doviak et al disclose a method for wireless communication between a

remote device and a host system. In Doviak, the RF communication interface module may include more than one modem if multiple data rates are required. Optionally the modem can be implemented using software wherein the modem can be changed by uploading new parameters in order to allow communication with a plurality of different types of radio infrastructures (systems) having distinct protocols and data rates (Doviak et al column 25, lines 52-65). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Hull et al using the RF communication interface module disclosed in Doviak et al in order to arrive at the applicant's invention as claimed in claim 4 since it is well known to enable a wireless transmission device to connect a plurality of wireless systems having distinct protocols and data rates as taught by Doviak et al.

13. Regarding claim 5, see examiner's comments on claim 4 and note that the combination of Hull et al and Doviak et al includes a router core responsible for making all routing decisions which are generally based on network speed and interface availability among other parameters (Doviak et al, figure 30; column 33, lines 57+). This constitutes a selection means to select a wireless communication system to be connected based on a rate system.

14. Claims 6-8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hull et al in view of Sasaki et al.

15. Regarding claim 6, Hull et al disclose a portable image transfer system wherein the camera may be provided externally or integrated into the device. When the camera is integrated, the whole system 10 becomes a camera (Hull et al, figure 1 item 10;

column 2 lines 9-11). Therefore Hull et al's camera includes a record medium which makes an image file by recording images obtained by a shooting (figure 1, item 24); wireless communications means that can transmit and receive an image recorded on the recording medium (figure 1, item 28); detection means to detect a memory capacity on the recording medium since the amount of memory remaining is displayed and if the memory is full the camera transmits the images in memory to the server station (inherent in CPU 22; column 3, lines 1-22); transmission and reception control means also inherent in CPU 22 to transmit and receive recorded information recorded on the record medium with the wireless communication means based on a detection signal from the detection means. Since the amount of free memory space remaining is displayed in response to a signal from the detection means inherent in CPU 22, thereby allowing execution of a transmit command by dialing a cellular number for the server station or otherwise setting up the link between the device and the server station (column 3, lines 1-28), then the transmission of the recorded information is obviously based on a detection signal from the detection means. Hull et al do not disclose a setting means to set a memory capacity recorded on the recording medium.

Sasaki et al disclose an electronic still camera with various modes of data compression that allows the adjusting of a memory capacity of its recording medium. In Sasaki et al, mode switch 12 allows the change of the amount of digital data required for storing one frame of an image. The amount of frames that can be stored on a given recording medium and thus the frame memory capacity of the recording medium is dependent on the mode that is selected. When a mode that results in a lower resolution is set, the

memory can store more frames and vice versa (Sasaki et al, column 4, lines 58+; column 5, lines 1-10). This gives the user added versatility because a user can now decide on the number of frames and the resolution of the images that can be recorded in memory. Furthermore the user can determine whether to trade resolution for memory capacity depending on the imaging environment. Note that the use of the number of frames as the basis of measurement for memory capacity is more realistic to the average user who is more familiar with the number of exposures on a roll of film. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Hull et al to include the mode selection switch (setting means) disclosed by Sasaki et al in order to set the memory capacity of the recording medium detected by the detection means since this would provide added versatility to the device in a meaningful way as described above. The detection means would then detect that the memory capacity recorded on the record medium becomes a capacity set by the setting means.

16. Regarding claim 7, see examiner's comments on claim 6 above and note that the wireless communication means and the transmission control means are in one unit. When the camera is provided separately it would be attached to the unit since a wireless system between the camera and the unit was not disclosed.

17. Regarding claim 8, see examiner's comments on claim 6 above and take official notice that it is well known to include position registration means in the transmission reception and control means to secure a position to a nearest communication base station automatically, and controls to transmit a recorded information to the nearest

communication base station. This is done in order to secure the best available signal or the strongest signal since the closer station would have the best or stronger signal.

18. Regarding claim 11, see examiner's comments on claim 6 above and take official notice that it is well known to receive a communication completion signal by a wireless transmitting device. This would be an obvious part of the transmission protocol because the remote device must know that the transmission was completed successfully before erasing the record medium or run the risk of destroying forever an image captured by the user and therefore operate inefficiently. Also, note that in the device of Hull et al and Sasaki et al, the images are overwritten after transmission.

19. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hull et al and Sasaki et al as applied to claim 6 above, and further in view of Doviak et al.

20. Regarding claim 12, the combination of Hull et al and Sasaki et al as applied to claim 6 above discloses all the limitations except wherein the transmission and reception control means can be connected with a plurality of wireless communication systems with different rate systems. However it is well known to enable a wireless transmission device to connect a plurality of wireless systems with different rates. Doviak et al disclose a method for wireless communication between a remote device and a host system. In Doviak et al, the RF communication interface module may include more than one modem if multiple data rates are required. Optionally the modem can be implemented using software wherein the modem can be changed by uploading new parameters in order to allow communication with a plurality of different types of radio

infrastructures (systems) having distinct protocols and data rates (Doviak et al column 25, lines 52-65). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Hull et al and Sasaki et al as applied to claim 6 above, using the RF communication interface module disclosed in Doviak et al in order to arrive at the applicant's invention as claimed in claim 12 since it is well known to enable a wireless transmission device to connect a plurality of wireless systems having distinct protocols and data rates as taught by Doviak et al.

21. Regarding claim 13, see examiner's comments on claim 12 above and note that the combination of Hull et al, Sasaki et al, and Doviak et al includes a router core responsible for making all routing decisions which are generally based on network speed and interface availability among other parameters (Doviak et al, figure 30; column 33, lines 57+). This constitutes a selection means to select a wireless communication system to be connected based on a rate system. This selection means would be included in the transmission and reception control means that is included in CPU 22.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tullis US Patent No: 6535243

Tomida et al US Patent No: 5923439

Yoshiura et al US Patent No: 5854693

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hedley Linton whose telephone number is (703) 305-

4693. The examiner can normally be reached on 9am-6:30pm, Mon-Thu; 9am-5:30pm every other Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (305) 305-4700.

Hedley Linton
Examiner
Art Unit 2615
October 15, 2003

ANDREW CHRISTENSEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600